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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,522	02/20/2004	Roy Lurie	MWS-109RCE	7481
74321 7590 07/06/2009 LAHIVE & COCKFIELD, LLP/THE MATHWORKS FLOOR 30, SUITE 3000 One Post Office Square Boston, MA 02109-2127				
EXAMINER				
WHALEY, PABLO S				
ART UNIT		PAPER NUMBER		
1631				
MAIL DATE		DELIVERY MODE		
07/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/783,522	Applicant(s) LURIE ET AL.
Examiner PABLO WHALEY	Art Unit 1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-36.
Claim(s) withdrawn from consideration: 37-50.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/SHUBO (Joe) ZHOU/
Primary Examiner, Art Unit 1631

Continuation of 11. does NOT place the application in condition for allowance because:

The amendment filed on 06/15/2009 has been entered.

Applicant's amendments are sufficient to overcome the rejection of claims 12-21 under 35 USC 101. However, applicant's arguments do not overcome the rejections of record under 35 U.S.C. 103(a) for the following reasons.

In response to applicant's arguments that the combination of Potts and Fox do not teach or suggests generating a result from executing a block diagram model of a biological process, Potts shows modeling a biological processes using executable programs in a computer-system, decision-trees, and prediction models, comparing data to an experimental device, and shows modifying a model based on comparison to correct the model [See Office Action mailed 04/14/2009, p.6-7]. Potts does not specifically teach generating results by executing a block diagram of a biological process, as in claims 1, 12, 22, and 28. Fox shows that biological systems can be modeled using network models, wherein the network architecture uses various types of blocks for performing different tasks related to the simulation process [See Abstract, Ref. claims 9, 11, Fig. 7, Fig. 8], which at a minimum suggests the use of "block diagrams". In response to applicant's arguments that Potts and Fox fail to teach comparing the generated result to the data gathered from an experimental device, Fox and Potts both teach models for generating results, and Potts teaches generating results based on comparison blood glucose values obtained from an experimental device [Col. 6, Col. 18, lines 45-60, Col. 7, lines 15-23]. The specification shows a block diagram comprising system components for performing simulations [Fig. 1] and does not provide any limiting definition for a block diagram that excludes the teachings of Potts and Fox. Therefore, the examiner maintains that the combination of references teaches and/or makes obvious the claimed limitations.

In response to applicant's arguments that the combination of Goryanin and Bubendorf fail to teach or suggests a block diagram model of a biological process, Goryanin teaches analysis models (i.e. simulation engines) model metabolic pathways, receive input, generate output, and display results via the operably connected model designer [Fig. 1 and Fig. 3]. The model is presented using a block diagram that models biological processes [Fig. 2 and p.750, Col. 2]. The specification shows a block diagram comprising system components for performing simulations [Fig. 1] and does not provide any limiting definition for a block diagram that excludes the teachings of Goryanin and Bubendorf. Therefore, the examiner maintains that the combination of references teaches and/or makes obvious the claimed limitations.

It is noted that page 6 of the specification describes block diagrams of the allocated memory for a solver [Fig. 7, Fig. 8A], however these limitations are not recited in the instant claims. The applicant is encouraged to set up an interview with the Examiner to further discuss potential amendments to the claims that would serve to forward prosecution in the future.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Whaley whose telephone number is (571)272-4425. The examiner can normally be reached on 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached at 571-272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pablo S. Whaley
Patent Examiner
Art Unit 1631

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